

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEBORAH MOSS, on Behalf of Herself
and All Others Similarly Situated,

Plaintiffs,

vs.

BMO HARRIS BANK, N.A., et al.,

Defendants

Civil Action No. 2:13-CV-05438-ERK-AYS

**PROPOSED DISCOVERY,
SETTLEMENT CONFERENCE, AND
MOTION SCHEDULE**

FACT DISCOVERY

1. *Timing of Discovery.* The Parties are to complete fact discovery by July 30, 2021.

EXPERT DISCOVERY

1. *Plaintiff's Experts.*
 - a. *Disclosures.* Plaintiff has already disclosed the identity of her experts who may testify in support of class-certification or at trial—Arthur Olsen and Cathy Glassman—and subjects of expert opinions.
 - b. *Reports.* Plaintiff's experts' written reports completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before August 2, 2021, however, Mr. Olsen's written report will be based in part on certain loan data that has been subpoenaed from the Federal Trade Commission, accordingly, Mr. Olsen's written report will be due twenty days after receipt by Plaintiff of the FTC's loan data.
 - c. If such information and data is not received by Plaintiff from the FTC by August 2, 2021, or Plaintiff is informed that the FTC will not be producing the sought information and data, the Parties shall meet and confer and then convene a scheduling conference with the Court to address the Schedule and how this case should proceed.
2. *Defendant's Experts.*
 - a. *Disclosures.* Defendant will disclose the identities of its expert(s) and subjects of expert opinion(s) on or before August 17, 2021.
 - b. *Reports.* Defendant's experts' written reports completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) must be served on or before September 27, 2021, however,

if Mr. Olsen's written report is served after August 2, 2021 due to the timing of receipt of any data from the FTC, any written report in response to Mr. Olsen's written report, or addressing the subjects therein, including but not limited to any expert reports from Defendant including expert opinions related to class certification, damages, injury, and/or the ACH data produced by Defendant or the FTC, will be due fifty-six (56) days after receipt by Defendant of Mr. Olsen's report.

- c. If and after the FTC produces any further data and information, both Plaintiff and Defendant retain the right to seek and obtain additional discovery at that time related to any FTC data and information produced, whether through agreement of the Parties and/or through legal proceedings necessary to seek and compel the production of additional information or testimony.

3. *Plaintiff's Rebuttal Expert Reports.*

- a. *Reports.* Plaintiff's expert rebuttal report(s), if any, shall be served no later than twenty days after receipt of Defendant's expert report(s).

4. *Expert Discovery Deadline.* All expert discovery, including expert depositions, must be completed by October 29, 2021, subject to any adjustments needed and necessary based on the timing of the FTC's production of data and information, if any, and any further discovery necessitated by such production as set forth above.

MOTIONS

1. *Dispositive Motions.* Any party seeking to make a dispositive motion, or *Daubert* motion, shall initiate that process, consistent with Judge Korman's Individual Rules, on or before December 30, 2021.

SETTLEMENT CONFERENCE

1. *Settlement Communications and Statements.*

- a. *Plaintiff's Demand.* Plaintiff shall communicate a written demand for settlement on or before December 30, 2021.
- b. *Defendant's Response.* Defendant shall respond to Plaintiff's demand on or before January 11, 2022.
- c. *Settlement Statements.* The parties shall each file an *ex parte* confidential settlement statement under seal, via ECF, not exceeding three pages on or before January 18, 2022.

2. *Settlement Conference.* The parties propose the settlement conference take place on January 26, 2022, or at such other date as the Court finds convenient.

PRE-TRIAL ORDER

1. Unless otherwise ordered by the Court, a joint pre-pre-trial order shall be filed within 30 days after filing of the dispositive motion papers pursuant to Judge Korman's bundling rule.

Dated: July 9, 2021

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Dated: July 9, 2021

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